

Docket No.: SJM-10002/15
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jim Spelman

Application No.: 09/814,210

Confirmation No.: 2314

Filed: March 21, 2001

Art Unit: 3611

For: Hand-held placard display incorporating a
plurality of individual messages mounted in a
circular binding fashion

Examiner: C. H. Davis

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Madam:

As required under § 41.37(a), this brief is filed within two months of the Notice of Appeal filed in this case on March 5, 2009, and is in furtherance of said Notice of Appeal.

The fees required under § 41.20(b)(2) were dealt with when the previous Appeal Brief was filed on June 4, 2007. If any additional fees are due, please charge them to Deposit Account No. 07-1180.

This brief contains items under the following headings as required by 37 C.F.R. § 41.37 and M.P.E.P. § 1205.2:

I.	Real Party In Interest
II	Related Appeals and Interferences
III.	Status of Claims
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V.	Summary of Claimed Subject Matter
VI.	Grounds of Rejection to be Reviewed on Appeal
VII.	Argument
VIII.	Claims
Appendix A	Claims
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I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Jim Spelman

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 11 claims pending in the application.

B. Current Status of Claims

1. Claims canceled: 7
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 1-6, 8-12
4. Claims allowed: none
5. Claims rejected: 1-6, 8-12

C. Claims On Appeal

The claims on appeal are claims 1-6, 8-12

IV. STATUS OF AMENDMENTS

Applicant did not file an Amendment After Final Rejection.

V. SUMMARY OF CLAIMED SUBJECT MATTER

A hand-held signal display device 10 (page 5, line 9, Fig. 1) as defined in claim 1 for use by a driver 12 (page 5, line 12, Fig. 3) or other occupant of a vehicle 14 (page 5, line 12, Fig. 3) and in order to communicate desired messages to the drivers or occupants of other vehicles (not shown) during specific driving situations. The device 10 includes a support with a handle portion 16 (page 5, line 21, Fig. 1) and an interconnecting and substantially planar display portion 18 (page 5, line 22, Fig. 1). The handle and display portions of the support are constructed of an integrally formed material (typically molded or casted) and such as a polymer or plasticized resin. The display portion 18 further includes a first surface 20 (page 5, line 25, Fig. 1) and a second oppositely facing surface 22 (page 5, line 26, Fig. 1) defining therebetween a specified thickness 24 (page 5, line 26, Fig. 1).

A plurality of individual and stackable sheets of material 26 (page 5, line 26, Fig. 1) each display a selected message on at least one side thereof and which is according to a selected content, coloring and lettering style. Each of the sheets of material 26 are constructed of a semi-rigid poster board material of a sufficient size and dimension so that the content of the message is easily visible to surrounding motorists. In a preferred variant, a six inch height and a twelve inch width have found to be most effective in both the ease of manipulation of the device by the user 12 within the vehicle 14, as well as being visible to occupants in the vehicle or vehicles being signaled.

The sheets are pivotally bound to the planar display portion of the support so that the selected message is displayed on a first selected sheet located upon the first surface and may be rotated to abut against the second oppositely facing surface to reveal an underlying and second selected sheet located upon the first surface and displaying a further selected message. The

direction of the pivotal rotation is indicated by arrow 30 (page 6, line 18, Fig. 1) and the underlying messages are illustrated at 32, 34, et seq. (page 6, line 19, Fig. 1) in succeeding fashion beneath the initial message 28.

The pivotal binding of the display device as defined in claim 11 requires at least one binding ring engaging through the display portion 18, between the first 20 and second 22 oppositely facing surfaces, and proximate an extending edge 35 (page 6, line 22, Fig. 1) located opposite the handle portion 16. A pair of first 36 and second 38 binding rings (page 6, line 24, Fig. 1) are located at specified and spaced apart distances. Each of the rings 36 and 38 is capable of being separately attachable and disengageable from the display portion by a first pivotally associated and arcuately configured portion 40 (page 6, line 29, Figs. 1 and 4) and second pivotally associated and arcuately configured portion 42 (page 6, line 29, Figs. 1 and 4). A clasp 44 (page 6, line 30, Fig. 4) extends from an arcuately extending end of each of the first configured portion 40 and is receivingly engaging within an aperture 46 (page 6, line 32, Fig. 4) defined proximate an end of the second associated configured portion 42 and upon rotating the first 40 and second 42 configured portions towards each other and in an engaging position.

An alternative embodiment of the present invention as defined in claim 12 is illustrated at 48 (page 7, line 4, Fig. 2) and again includes a support with a handle portion 50 (page 7, line 6, Fig. 2) and an interconnecting and substantially planar display portion 52 (page 7, line 6, Fig. 2) with a first surface 54 (page 7, line 7, Fig. 2) and a second oppositely facing surface 56 (line 7) defining therebetween a specified thickness 58 (line 8). A plurality of spiral binding portions 60 (page 6, line 8, Fig. 2) are illustrated engaging through the display portion 52, between the first 54 and second 56 facing surfaces, and proximate an extending edge 62 (line 10) opposite the handle portion. The spiral bindings can take the form of a continuously curled and elongate

extending strip which is bound through an associated plurality of spaced apertures defined proximate the top extending edge 62.

A display mount 64 (page 7, line 19, Fig. 3), at a specified location within the vehicle such as upon a top surface of a dashboard 66 (page 7, line 20, Fig. 3) or other fixed location, is easily and safely accessible by the operator or other occupant in the vehicle 14. The display mount 64 may seatingly engage the handle portion (such as portion 16 of first variant 10) and so that the message arrayed upon the display portion is visible to occupants of other vehicles. This is in addition to the first preferred embodiment in which the placard display 10 or 48 is hand-held.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The issues presented for review include the rejection under 35 USC §103(a) of claims 1-3 and 8-10 as being unpatentable over Guthrie, Australian Patent AU-A-25136/84, in view of Dinstbir, U.S. Patent 3,237,330; the rejection of claim 6 under 35 USC §103(a) as being unpatentable over Guthrie in view of Dinstbir as applied to claim 1 and in view of Johnston, U.S. Patent No. 2,915,849; the rejection of claims 4 and 5 under 35 USC §103(a) as being unpatentable over Guthrie in view of Distbir as applied to claim 1 and in further view of Morden, U.S. Patent 841,706; and the rejection of claims 11 and 12 under 35 USC §103(a) as being unpatentable over Guthrie.

VII. ARGUMENT

Rejection Under 35 USC §103(A) Of Claims 1-3 And 8-10 As Being Unpatentable Over Guthrie in view of Dinstbir

Guthrie teaches a communication board for vehicles including, in relevant part, a lightweight plastic, wooden or metal panel 12 upon which are mounted, in spiral bound fashion,

a plurality of progressively shorter and stacked flaps, each bearing a message of some type. A pair of rings engage spaced apart holes at locations along a top edge of the panel.

While arguably conceptually relevant to the present invention, it is submitted that the present claims recite certain features not disclosed or rendered obvious by Guthrie. In particular, no suggestion is made by Guthrie as to the recitation of the display mount at a specified location within the vehicle and within which may be seated the handle portion of the display device. This is particularly recited in claim 1. Guthrie, as best understood from its description, is related to a communication system for passing visual messages of a courtesy nature, such as during one vehicle passing another.

In contrast, the present invention describes and claims a safety oriented inter-auto display device which permits the application of warning messages, such as particularly related to vehicle faults not detectable by the recipient of the visually displayed message. Accordingly, the present invention introduces a safety aspect not found in Guthrie. An example of this would be a "driver needs help" notice by which a safety message may be communicated either to or from a vehicle occupant requiring assistance. The present invention further may operate as a warning of an impending or actual vehicle fault, again to or from an affected vehicle/driver.

The flaps 17 described in Guthrie further do not suggest or teach a semi-rigid poster board material as further recited in claim 2. This is in addition to the safety directed features as pointed out in claim 1. Guthrie does not teach or suggest the rings each being separately attachable and disengageable from the display portion. This allows for the quick replacement or supplement of safety-related messages not taught or suggested by Guthrie.

Dinstibir teaches a warning device for vehicles and in which a flat, rigid and double faced indicator member is supported upon an integrally formed coplanar stem for supporting such as

upon a dashboard of a vehicle. A flat indicator member 18 includes a center/inner member or ply 20 and a pair of outer members 22 and 24 (see Fig. 3 side view cutaway), the device being supported upon a separate attaching member 31 with a bottom disposed suction cup and within which seats the stem 26.

Applicant submits that, given that Dinstibir does not teach or suggest the plurality of rotatable and pivotably bound sheets as recited in claim 1. In fact, Dinstibir teaches away from this in that the sheets are seated at their base (stem 26) locations within the interior pocket defined in the dash mounted attaching member 31.

Accordingly, it is submitted that the teachings of Guthrie and Dinstibir do not, in combination, teach or suggest the features of independent claim 1 and, by dependency, those of claims 1-3 and 8-10.

Rejection Of Claim 6 Under 35 USC §103(A) As Being Unpatentable Over Guthrie In View Of Dinstbir As Applied To Claim 1 And In View Of Johnston

The arguments presented above in respect to Guthrie are repeated in full herein. With further regard to Johnston, it is submitted that the rigid board supported within the music holder and including upper disposed rings 14 does not teach or suggest the hand-held inter auto display devices as recited in claim 1. It is further submitted that the feature of exhibiting a plurality of spiral binding portions engaging through the display portion, and between first and second sides, proximate to an extending edge opposite the handle portion is further non-obvious in view of Johnston in that it does not disclose a handle portion to begin with, but rather attaches along a bottom edge to a stand member supporting member/clamping device 31.

Rejection Of Claims 4 And 5 Under 35 USC §103(A) As Being Unpatentable Over Guthrie In View Of Dinstibir As Applied To Claim 1 And In Further View Of Morden

Additional to the arguments presented above, it is submitted that book ring with spring hinged joints as set forth in Morden does not teach or suggest application to the binding rings as recited in claim 4 and further recited in claim 5. It is further submitted that the Morden is not combinable with Guthrie and/or Dinstibir, in that it does not teach or suggest application to a hand-held inter auto display device as recited in claim 1.

Rejection Of Claims 11 And 12 Under 35 USC §103(A) As Being Unpatentable Over Guthrie

Applicant repeats in full the arguments presented in the rejection of claim 1 over Guthrie. Applicant again specifically argues that no suggestion is made by Guthrie as to the

recitation of the display mount at a specified location within the vehicle and within which may be seated the handle portion of the display device. This is particularly recited in claim 1. Guthrie, again as best understood from its description, is related to a communication system for passing visual messages of a courtesy nature, such as during one vehicle passing another and does not teach or suggest the recitations of claims 11 and 12, which are in particular again directed to an inter-auto display device for decreasing instances of driver frustration and road rage, concurrent with establishing better overall attitudes of drivers when on the road.

VIII. CLAIMS

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, the claims in Appendix A include the amendments filed by Applicant on June 24, 2002.

Dated: May 4, 2009

Respectfully submitted,

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APPENDIX A – CLAIMS APPENDIX**Claims Involved in the Appeal of Application Serial No. 09/814,210**

1. A hand-held inter-auto display device, comprising:
 - a support including a handle portion and an interconnecting and substantially planar display portion, said display portion having a first surface and a second oppositely facing surface defining therebetween a specified thickness;
 - a display mount at a specified location within a vehicle and within which may be seatingly engaged said handle portion;
 - a plurality of individual and stackable sheets of material, each of said sheets displaying a selected message on at least one side thereof; and
 - said sheets being pivotally bound to said planar display portion of said support so that a selected message, displayed on a first selected sheet located upon said first surface, may be rotated to abut against said second oppositely facing surface and to reveal an underlying and second selected sheet located upon said first surface and displaying a further selected image;
 - said display device decreasing the instances of driver frustration and road rage, concurrent with establishing better overall attitudes of drivers when on the road.
2. The hand-held inter-auto display device according to claim 1, said plurality of individual and stackable sheets each further comprising a semi-rigid poster-board material.
3. The hand-held inter-auto display device according to claim 1, said pivotally binding further comprising at least one binding ring engaging through said display portion,

between said first and second facing surfaces, and proximate an extending edge opposite said handle portion.

4. The hand-held inter-auto display device according to claim 3, further comprising a pair of first and second binding rings located at specified and spaced apart distances, each of said rings being separately attachable and disengageable from said display portion.

5. The hand-held inter-auto display device according to claim 4, each of said binding rings further comprising a first pivotally associated and arcuately configured portion and a second pivotally associated and arcuately configured portion, a clasp extending from an end of said first configured portion and receivingly engaging within an aperture defined proximate an end of said second configured portion.

6. The hand-held inter-auto display device according to claim 3, further comprising a plurality of spiral binding portions engaging through said display portion, between said first and second facing surfaces, and proximate an extending edge opposite said handle portion.

8. The hand-held inter-auto display device according to claim 1, each of said messages being presented according to a selected content, coloring and lettering style.

9. The hand-held inter-auto display device according to claim 1, said handle portion and planar display portion comprising an integrally formed material selected from a group including polymers and plasticized resins.

10. The hand-held inter-auto display device according to claim 1, said handle portion and planar display portion being integrally constructed, each of said plurality of message bearing sheets further defining a width of substantially twelve inches and a height of substantially six inches.

11. A hand-held inter-auto display device, comprising:

a support including a handle portion and an interconnecting and substantially planar display portion, said display portion having a first surface and a second oppositely facing surface defining therebetween a specified thickness;

a plurality of individual and stackable sheets of material, each of said sheets displaying a selected message on at least one side thereof, each of said messages being presented according to a selected content, coloring and lettering style, said plurality of individual and stackable sheets each further comprising a semi-rigid poster-board material; and

said sheets being pivotally bound to said planar display portion of said support so that a selected message, displayed on a first selected sheet located upon said first surface, may be rotated to abut against said second oppositely facing surface and to reveal an underlying and second selected sheet located upon said first surface and displaying a further selected message, said pivotal binding further comprising at least one binding ring engaging through said display portion, between said first and second facing surfaces, and proximate an extending edge opposite said handle portion;

said display device decreasing the instances of driver frustration and road rage, concurrent with establishing better overall attitudes of drivers when on the road.

12. An inter-auto display device for use by an occupant of a first vehicle for communicating to occupants of at least one additional vehicle, said display device comprising:

a support including a handle portion and an interconnecting and substantially planar display portion, said display portion having a first surface and a second oppositely facing surface defining therebetween a specified thickness;

a plurality of individual and stackable sheets of material, each of said sheets displaying a selected message on at least one side thereof, each of said messages being presented according to a selected content, coloring and lettering style, said plurality of individual and stackable sheets each further comprising a semi-rigid poster-board material; and

said sheets being pivotally bound to said planar display portion of said support so that a selected message, displayed on a first selected sheet located upon said first surface, may be rotated to abut against said second oppositely facing surface and to reveal an underlying and second selected sheet located upon said first surface and displaying a further selected message, said pivotal binding further comprising at least one binding ring engaging through said display portion, between said first and second facing surfaces, and proximate an extending edge opposite said handle portion;

said display device decreasing the instances of driver frustration and road rage, concurrent with establishing better overall attitudes of drivers when on the road.

APPENDIX B – EVIDENCE APPENDIX

No evidence pursuant to §§ 1.130, 1.131, or 1.132 or entered by or relied upon by the examiner is being submitted.

APPENDIX C – RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II. above, hence copies of decisions in related proceedings are not provided.